

FILED - LN

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TRACEY CORDES, CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY:

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

AMERICAN STEEL TREATING, INC., an
Ohio Corporation,

Plaintiff,

-vs-

LEN INDUSTRIES, INC., a Michigan
Corporation,

Defendant.

1:09-cv-1156

**Janet T. Neff
US District Judge**

SICILIANO MYCHALOWYCH

VAN DUSEN and FEUL, PLC

By: Timothy R. Van Dusen (P33390)

Molly Strand Leslie (P68764)

Attorneys for Plaintiff

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COMPLAINT

Plaintiff, AMERICAN STEEL TREATING, INC. ("AST"), an Ohio corporation,
by and through its counsel, **SICILIANO, MYCHALOWYCH, VAN DUSEN AND FEUL, PLC**,
for this its Complaint against LEN INDUSTRIES, INC. ("Len"), states as follows:

1. AST is an Ohio corporation with its principal place of business located at 525
West Sixth Street, Perrysburg, OH 43551.
2. Len is a Michigan corporation with its principal place of business located at 815
Rice Street, Leslie, MI 49251.
3. This Court has subject matter jurisdiction over this action because the amount in

controversy exceeds \$75,000.00, exclusive of interest, costs, and attorney fees, and there is complete diversity of the parties.

4. Venue is appropriate in this district court because the Defendant conducts business in the City of Leslie, Michigan, which is located within the Western District of Michigan.
5. This Court has personal jurisdiction over the Defendant because it is a Michigan corporation which transacts business in Michigan.

COMMON ALLEGATIONS

6. AST incorporates by reference the allegations set forth in Paragraphs 1 through 5 of this Complaint as if each were fully restated herein.
7. Len issued a Purchase Order (PO62524) to AST, dated June 27, 2007, for AST to provide heat treating of steel parts for the 4L60 General Motors rear wheel drive transmission for Len. See Purchase Order (PO62524) attached as Exhibit A.
8. Specifically, pursuant to the Purchase Order (PO62524), AST agreed to heat treat Part #24245509 at a unit price of \$0.38 (Line 1); Part #24245508 at a unit price of \$0.86 (Line 2); and Part #8673300 at a unit price of \$1.10 (Line 3). See Purchase Order (PO62524) attached as Exhibit A.
9. AST performed the work and invoiced Len for services provided. Refer to Statement attached as Exhibit B.
10. As of December 23, 2009, Len is justly indebted to AST for the work performed under the Purchase Order (PO62524) in the principal amount of Two Hundred Thousand Four Hundred Ninety Seven and 16/100 (\$210,497.16), which amount remains substantially past due.

11. Despite repeated demand from AST and its counsel, the entire principal balance remains unpaid.

COUNT I—BREACH OF CONTRACT

12. AST incorporates by reference the allegations set forth in Paragraphs 1 through 11 of this Complaint as if each were fully restated herein.

13. AST performed all requested heat treating services for Len and timely submitted invoices to Len for payment.

14. Under the terms of the Purchase Order (PO62524), Len was obligated to make payment to AST within 30 days after receipt of AST's invoice.

15. In breach of the parties' agreement, in approximately June of 2008, Len ceased making payments on its account to AST.

16. After making partial past due payments, Len has ceased making payments to AST.

17. Len's failure to pay is in breach of its agreement with AST.

WHEREFORE, American Steel Treating requests this Court to grant it a Judgment against Len Industries, Inc. in the amount of the principal balance of Two Hundred Thousand Four Hundred Ninety Seven and 16/100 (\$210,497.16), interest from and after thirty (30) days from the date of each invoice, costs and reasonable attorney fees, and such additional relief as this Court shall deem warranted under the circumstances.

**SICILIANO MYCHALOWYCH
VAN DUSEN AND FEUL, PLLC,**

By: 

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December 23, 2009

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